THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 34377 OF 1997

DATE: 3-4-2007

BETWEEN:

B.Motilal ….. Petitioner

And

1. The Presiding Officer,
Labour Court I, Hyderabad and another .. Respondents

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THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 34377 OF 1997

ORDER:

Aggrieved by the award of the Labour Court, in I.D.No.659 of 1993 dated 13.5.1996, upholding the action of the respondent in imposing on him the punishment of removal from service for assault and abuse of a Supervisor, the present writ petition is filed by the petitioner – workman.

In the claim statement filed before the Labour Court, the petitioner herein has taken a specific plea that the enquiry officer had relied on the preliminary enquiry report, and on the statement of the Security Guard who was not examined in the domestic enquiry, and that the findings recorded in the domestic enquiry were perverse, partisan and prejudicial. The fact that the enquiry officer had relied on the statement of Sri R.Martin Rao, who was not examined in the enquiry, but was examined earlier in the preliminary enquiry was borne out from the Appendix to the award wherein Ex.M.7 is listed as the statement of Sri Martin Rao, Security Guard, made during the preliminary enquiry. Since the petitioner herein has raised a specific plea regarding the validity of the domestic enquiry, the Labour Court ought to have adjudicated its validity before proceeding further in the matter, for it is only when the domestic enquiry is held to be valid would the Labour Court be entitled to exercise jurisdiction under Section 11-A of the Industrial Disputes Act to re-appreciate the evidence on record and determine the appropriate punishment to be imposed if it comes to the conclusion that the charges levelled against the workman are established. If, on the other hand, the domestic enquiry is held vitiated, then the employer if he so requires, is required to be given an opportunity to adduce evidence afresh to substantiate the charges levelled against the workman and in justification of the punishment imposed. Curiously, while no oral evidence was adduced before the Labour Court both on behalf of the petitioner and the

respondents and no documentary evidence was let in on behalf of the petitioner-workman Exs.M.1 to M.19 are shown to have been marked as exhibits on behalf of the respondents. The award does not even specify as to whether these documents were marked with consent.

Since the Labour Couurt has not even examined the validity of the domestic enquiry, the award as passed is liable to be set aside and the matter remanded to the Labour Court to decide the validity of the domestic enquiry and thereafter proceed further in accordance with law. Since the I.D. relates to the year 1993, and more than 13 years have elapsed since then, it is necessary that the entire matter be decide expeditiously and an award passed within four months from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly. However, in the circumstances, without costs.

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3-4-2007

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